

REDACTED

**National Strategy Regional Oversight Issues and Approaches
Region 4, Alabama
June 2014**

PROGRAM	Significant Issues (SRF Round 3)	Corrective Measures/Escalation Approach with Timeframes	Discussion
CAA	Data accuracy – recurring from Round 2	AL made the necessary data corrections. (3/31/14)	
	Inspections		
	Violations		
	Enforcement		
	Penalty Calculations – recurring from Rounds 1 & 2	AL to implement procedures for documenting EB (like CWA does) & send copies of proposed administrative orders & final consent orders with penalty worksheets to EPA for review for one year following finalization of Round 3 report (3/30/15)	
NOT RESPONSIVE			
NOT RESPONSIVE			
		NOT RESPONSIVE	

National Strategy Regional Oversight Issues and Approaches **REDACTED**
 Region 4, Alabama
 March 2015

PROGRAM	Significant Issues (SRF Round 3)	Corrective Measures/Escalation Approach with Timeframes	Discussion
CAA	Data accuracy		
	Inspections		
	Violations		
	Enforcement		
	Penalty Calculations – recurring from Rounds 1 & 2	AL to implement procedures for documenting EB (like CWA does) & send copies of proposed administrative orders & final consent orders with penalty worksheets to EPA for review for one year following finalization of Round 3 report (3/30/15)	We are continuing to work with ADEM on documenting penalty calculations.
NOT RESPONSIVE			

National Strategy Regional Oversight Issues and Approaches
Region 4, Alabama
March 2015

REDACTED

PROGRAM	Significant Issues (SRF Round 3)	Corrective Measures/Escalation Approach with Timeframes	Discussion
NOT RESPONSIVE			

National Strategy Regional Oversight Issues and Approaches **REDACTED**
Region 4 - Alabama
March 1, 2016

Program	SRF Element Round 3	Significant Issues	Corrective Measures/Escalation Approach with Timeframes	National Strategy Escalation Tier (1, 2, 3, 4 or combination)*	Discussion/Questions
CAA	Data accuracy				
	Inspections				
	Violations				
	Enforcement				
	Penalty Calculations (recurring from Rounds 1 & 2)	Round 3: ADEM does not adequately consider and document economic benefit or document differences between initial and final penalty.	SRF Recommendation is to implement procedures for documenting EBN (like ADEM's CWA program does) and differences in initial and final penalty. No change to date in ADEM's procedures. Long Term Resolution	Tier 2	***The issue of penalty documentation as an area that "Needs State Improvement" is prevalent in our States. While some progress has been made, we have continuing concerns in some States. We have asked ORC to review our delegation agreements with the States to determine their responsibility under the agreements to document their penalty calculations.
NOT RESPONSIVE					

* **Tier 1: Work with the state to call attention to the issue** - Staff level discussions; Capacity building; Technical assistance; Training/workshops; Standard Operating Procedures (SOPs); Voluntary workshare; includes "Area for State Attention" in SRF reports.

Tier 2: Elevate problem-resolution to higher management and document path to resolution - Upper management discussions (RA/Commissioner level); Corrective actions in writing (including "Area for State Improvement" in SRF reports); Grant workplans and PPA (language with changes); Issue-specific MOAs; Corrective actions monitored on a regular basis

Tier 3: Take direct EPA action - Review completed state actions to see improvements; Review actions prior to state taking action to ensure conformance; Conduct joint, oversight, or fed only inspections; Bring fed only cases

Tier 4: Escalating EPA action - Overfiling when a state does not take action; Withholding grant funds; Temporary or partial withdrawal of a program; Full program withdrawal

National Strategy Regional Oversight Issues and Approaches
Region 4 - Alabama
March 1, 2016

REDACTED

Program	SRF Element Round 3	Significant Issues	Corrective Measures/Escalation Approach with Timeframes	National Strategy Escalation Tier (1, 2, 3, 4 or combination)*	Discussion/Questions
NOT RESPONSIVE					

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**National Strategy Regional Oversight Issues and Approaches
Region 4 - Alabama
March 1, 2016**

REDACTED

Program	SRF Element Round 3	Significant Issues	Corrective Measures/Escalation Approach with Timeframes	National Strategy Escalation Tier (1, 2, 3, 4 or combination)*	Discussion/Questions
NOT RESPONSIVE					

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**National Strategy Regional Oversight Issues and Approaches
Region 4, Florida
June 2014**

June 2014

PROGRAM	Significant Issue (Round 2 pilot)	Corrective Measures/Escalation Approach with Timeframes	Discussion/Question
CAA	Data	FDEP trained staff on data entry & assigned staff person to ensure accurate MDR data is entered and updated. (12/31/13)	
	Inspections	Region reviewed sample CMRs over 6-month period, and they now include all required elements (4/4/14)	
	Violations	Region monitoring of HPV ID through monthly calls confirms FDEP is accurately identifying HPVs. (3/21/14)	
	Enforcement	FDEP has improved to 100% of HPVs addressed within 270 days in FY2013. (12/31/13)	
	Penalty Calculation	EPA's review of sample penalty calculations confirms EB is being considered and documented in penalty calculations. (4/4/14)	
NOT RESPONSIVE			

**National Strategy Regional Oversight Issues and Approaches
Region 4, Florida
March 2015**

REDACTED

PROGRAM	Significant Issue (Round 2 pilot)	Corrective Measures/Escalation Approach with Timeframes	Discussion/Question
CAA	Data	Region verified improvements in data accuracy & timeliness through Annual DMA. (Completed 12/31/13)	
	Inspections	Regional review of sample CMRs confirmed they now include all required elements. FDEP redesigned electronic inspection tools, conducted staff training, and moved to a new file management system (OCCULUS) in order to ensure consistent compliance inspections and easier data transfer into the state data system. (Completed 4/4/14)	
	Violations	Based on monthly HPV calls with FDEP over the last year, EPA has determined that FDEP is following the HPV policy and properly identifying HPVs. (Completed 3/21/14)	
	Enforcement	FDEP improved to 100% of HPVs addressed within 270 days in FY13 and FY14. (Completed 12/31/13)	
	Penalty Calculation	EPA's review of sample penalty calculations provided by FDEP confirms that economic benefit is being considered and documented in penalty calculations. (Completed 4/4/14)	

NOT RESPONSIVE

**National Strategy Regional Oversight Issues and Approaches
Region 4, Florida
March 2015**

PROGRAM	Significant Issue (Round 2 pilot)	Corrective Measures/Escalation Approach with Timeframes	Discussion/Question

National Strategy Regional Oversight Issues and Approaches
Region 4 - Florida
March 1, 2016

Program	SRF Element Round 2	Significant Issues	Corrective Measures/Escalation Approach with Timeframes	National Strategy Escalation Tier (1, 2, 3, 4 or combination)*	Discussion/Questions
CAA	Data		Region verified improvements in data accuracy & timeliness through Annual DMA. Recommendation Closed (12/31/13)		
	Inspections		Regional review of sample CMRs confirmed they now include all required elements. FDEP redesigned electronic inspection tools, conducted staff training, and moved to a new file management system (OCCULUS) in order to ensure consistent compliance inspections and easier data transfer into the state data system. Recommendation Closed (4/4/14)		
	Violations		Based on monthly HPV calls with FDEP over the last year, EPA has determined that FDEP is following the HPV policy and properly identifying HPVs. Recommendation Closed (3/21/14)		
	Enforcement		FDEP improved to 100% of HPVs addressed within 270 days in FY13 and FY14. Recommendation Closed (12/31/13)		
	Penalty Calculation		EPA's review of sample penalty calculations provided by FDEP confirms that economic benefit is being considered and documented in penalty calculations. Recommendation Closed (4/4/14)		

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Tier 4: Escalating EPA action - Overfiling when a state does not take action; Withholding grant funds; Temporary or partial withdrawal of a program; Full program withdrawal

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NOT RESPONSIVE

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National Strategy Regional Oversight Issues and Approaches
Region 4 - Florida
March 1, 2016

REDACTED

Program	SRF Element Round 2	Significant Issues	Corrective Measures/Escalation Approach with Timeframes	National Strategy Escalation Tier (1, 2, 3, 4 or combination)*	Discussion/Questions
NOT RESPONSIVE					

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**National Strategy Regional Oversight Issues and Approaches
Region 4 - Florida
March 1, 2016**

REDACTED

Program	SRF Element Round 2	Significant Issues	Corrective Measures/Escalation Approach with Timeframes	National Strategy Escalation Tier (1, 2, 3, 4 or combination)*	Discussion/Questions
NOT RESPONSIVE					

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**National Strategy Regional Oversight Issues and Approaches
Region 4, Georgia
June 2014**

June 2014

PROGRAM	Significant Issue (SRF Round 2)	Corrective Measures/Escalation Approach with Timeframes	Discussion/Questions
CAA	Data accuracy	GA cites insufficient funds to implement the asbestos NESHAP enforcement & compliance program and thus does not meet its grant commitments. This issue remains long term resolution.	SRF Round 3 review is currently underway.
	Inspections		
	Violations		
	Enforcement		
	Penalty Calculations		
NOT RESPONSIVE			

**National Strategy Regional Oversight Issues and Approaches
Region 4, Georgia
March 2015**

REDACTED

PROGRAM	Significant Issue (SRF Round 2 and the Draft Round 3 report)	Corrective Measures/Escalation Approach with Timeframes	Discussion/Questions
CAA	Data accuracy	GA needs to improve documentation of consideration of economic benefit in penalty calculations. EPA will review final penalty worksheets for one year. (Round 3 draft recommendation)	
	Inspections		
	Violations		
	Enforcement		
	Penalty Calculations		
NOT RESPONSIVE			

National Strategy Regional Oversight Issues and Approaches
Region 4, Georgia
March 2015

REDACTED

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Tier 4: Escalating EPA action - Overfiling when a state does not take action; Withholding grant funds; Temporary or partial withdrawal of a program; Full program withdrawal

National Strategy Regional Oversight Issues and Approaches **REDACTED**
Region 4 - Georgia
March 1, 2016

Program	SRF Element	Significant Issues	Corrective Measures/Escalation Approach with Timeframes	National Strategy Escalation Tier (1, 2, 3, 4 or combination)*	Discussion/Questions
CAA	Data accuracy				
	Inspections				
	Violations				
	Enforcement				
	Penalty Calculations	GA needs to improve documentation of consideration of economic benefit in penalty calculations.	SRF recommendation is for EPA to review final penalty worksheets for one year. However, EPD will no longer allow access to CAA penalty calculations. Long Term Resolution	Tier 2	
NOT RESPONSIVE					

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**National Strategy Regional Oversight Issues and Approaches
Region 4, Kentucky
June 2014**

REDACTED

June 2014

PROGRAM	Significant Issues (Round 2 SRF)	Corrective Measures/Escalation Approach with Timeframes	Discussion/Questions
CAA	Data	KY developed & implemented plan for addressing stack test backlog. State working to improve timeliness of stack test data entry. Recommendation complete. (3/27/14)	
	Inspections		
	Violations	EPA verified through oversight calls & data reviews that KY is reporting HPV and non-HPV compliance status accurately & timely. (12/31/13)	
	Enforcement	EPA has verified through oversight calls that KDEP is timely addressing HPVs. The recommendation is considered completed. (12/31/13)	
	Penalty Calculations	KY is working on written procedures for civil penalty calculation and assessment. KDEP hopes to present regulatory changes to the Legislature by June 30, 2014, which will enable them to legally implement the type of civil penalty documentation that conforms to EPA policies.	

NOT RESPONSIVE

**National Strategy Regional Oversight Issues and Approaches
Region 4, Kentucky
March 2015**

REDACTED

PROGRAM	Significant Issues (Round 2 SRF and draft Round 3)	Corrective Measures/Escalation Approach with Timeframes	Discussion/Questions
CAA	Data	KY to identify and address causes for data inaccuracy and untimely stack test reporting. Region to monitor progress. (Round 3 draft recommendation) KY is working on a written procedure on civil penalty calculation and assessment. As of December 2014, this penalty tool was in beta-testing. Once the groundwork is laid, KDEP will commence writing a civil penalty regulation that will give them the ability to legally implement the type of civil penalty documentation that conforms to U.S. EPA policies. (Round 3 draft recommendation)	
	Inspections		
	Violations		
	Enforcement		
	Penalty Calculations		
NOT RESPONSIVE			

National Strategy Regional Oversight Issues and Approaches
Region 4, Kentucky
March 2015

REDACTED

PROGRAM	Significant Issues (Round 2 SRF and draft Round 3)	Corrective Measures/Escalation Approach with Timeframes	Discussion/Questions
NOT RESPONSIVE			
			ing to that mitigation.

**National Strategy Regional Oversight Issues and Approaches
Region 4 - Kentucky
March 1, 2016**

REDACTED

Program	SRF Element	Significant Issues	Corrective Measures/Escalation Approach with Timeframes	National Strategy Escalation Tier (1, 2, 3, 4 or combination)*	Discussion/Questions
CAA	Data	KY to identify and address causes for data inaccuracy and untimely stack test reporting.	Region to monitor progress (1/1/17)	Tier 2	
	Inspections				
	Violations				
	Enforcement				
	Penalty Calculations		KY is working on a written procedure on civil penalty calculation and assessment. As of March 2016, this penalty tool was in beta-testing. Once the groundwork is laid, KDEP will commence writing a civil penalty regulation that will give them the ability to legally implement the type of civil penalty documentation that conforms to U.S. EPA policies.	Tier 2	
NOT RESPONSIVE					

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Tier 4: Escalating EPA action - Overfiling when a state does not take action; Withholding grant funds; Temporary or partial withdrawal of a program; Full program withdrawal

**National Strategy Regional Oversight Issues and Approaches
Region 4 - Kentucky
March 1, 2016**

REDACTED

Program	SRF Element	Significant Issues	Corrective Measures/Escalation Approach with Timeframes	National Strategy Escalation Tier (1, 2, 3, 4 or combination)*	Discussion/Questions
		accurately enter SEVs into ICIS	and coded accurately (including SSOs) into ICIS. EPA will monitor the State's efforts through existing oversight calls and other periodic data reviews. (1/1/17)		
	Enforcement	Round 3 - KY is to implement timely and appropriate enforcement responses that promote a return to compliance.	KDEP should implement procedures to ensure that enforcement responses achieve a return to compliance and for major facilities in SNC are timely EPA will monitor the State's efforts through existing oversight calls and other periodic data reviews. (1/1/17)	Tier 2	
	Penalty Calculations	Round 3 - The State does not maintain initial or final penalty calculations.	KY is working on a written procedure on civil penalty calculation and assessment. As of March 2016, this penalty tool was in beta-testing. Once the groundwork is laid, KDEP will commence writing a civil penalty regulation that will give them the ability to legally implement the type of civil penalty documentation that conforms to U.S. EPA policies. (10/29/16)	Tier 2	
NOT RESPONSIVE					

* **Tier 1: Work with the state to call attention to the issue** - Staff level discussions; Capacity building; Technical assistance; Training/workshops; Standard Operating Procedures (SOPs); Voluntary workshare; includes "Area for State Attention" in SRF reports.

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National Strategy Regional Oversight Issues and Approaches
Region 4 - Kentucky
March 1, 2016

REDACTED

Program	SRF Element	Significant Issues	Corrective Measures/Escalation Approach with Timeframes	National Strategy Escalation Tier (1, 2, 3, 4 or combination)*	Discussion/Questions
NOT RESPONSIVE					

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REDACTED

**National Strategy Regional Oversight Issues and Approaches
Region 4, Mississippi
June 2014**

PROGRAM	Significant Issues (Round 2 SRF)	Corrective Measures/Escalation Approach with Timeframes	Discussion/Questions
CAA	Data	Timeliness of data entry has significantly improved, matching the national average. Recommendation complete. (4/15/14)	
	Inspections		
	Violations		
	Enforcement	Timeliness of HPV addressing actions has significantly improved, matching the national average. Recommendation complete. (4/15/14)	
	Penalty Calculations		
	Data		
NOT RESPONSIVE			

National Strategy Regional Oversight Issues and Approaches **REDACTED**
Region 4, Mississippi
March 2015

PROGRAM	Significant Issues (Round 2 SRF)	Corrective Measures/Escalation Approach with Timeframes	Discussion/Questions
CAA	Data	Timeliness of data entry had trended upward since the SRF review, approaching the national average, but recent ADMA indicated a reversal of that trend.	
	Inspections		
	Violations		
	Enforcement	Timeliness of HPV addressing actions has been steadily improving since the SRF review, and is now above the national average. (Completed 4/15/14)	
	Penalty Calculations		

NOT RESPONSIVE

**National Strategy Regional Oversight Issues and Approaches
Region 4, Mississippi
March 2015**

PROGRAM	Significant Issues (Round 2 SRF)	Corrective Measures/Escalation Approach with Timeframes	Discussion/Questions

**National Strategy Regional Oversight Issues and Approaches
Region 4 - Mississippi
March 1, 2016**

REDACTED

Program	SRF Element	Significant Issues	Corrective Measures/Escalation Approach with Timeframes	National Strategy Escalation Tier (1, 2, 3, 4 or combination)*	Discussion/Questions
CAA	Data	Draft Round 3 SRF: MDR data associated with HPVs, stack tests, and enforcement actions were often reported late.	MDEQ should provide documentation to EPA concerning efforts to identify and address the causes of untimely MDR reporting. (3/31/17)	Tier 2	
	Inspections				
	Violations				
	Enforcement				
	Penalty Calculations				
NOT RESPONSIVE					

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**National Strategy Regional Oversight Issues and Approaches
Region 4 - Mississippi
March 1, 2016**

REDACTED

Program	SRF Element	Significant Issues	Corrective Measures/Escalation Approach with Timeframes	National Strategy Escalation Tier (1, 2, 3, 4 or combination)*	Discussion/Questions
			NOT RESPONSIVE		

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Tier 4: Escalating EPA action - Overfiling when a state does not take action; Withholding grant funds; Temporary or partial withdrawal of a program; Full program withdrawal

National Strategy Regional Oversight Issues and Approaches
Region 4 - Mississippi
March 1, 2016

REDACTED

Program	SRF Element	Significant Issues	Corrective Measures/Escalation Approach with Timeframes	National Strategy Escalation Tier (1, 2, 3, 4 or combination)*	Discussion/Questions

NOT RESPONSIVE

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REDACTED



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

Mr. Donald R. van der Vaart
Secretary
North Carolina Department of Environmental Quality
217 West Jones Street
Raleigh, North Carolina 27603

MAY 09 2016

Dear Secretary van der Vaart:

I am writing as a follow up to our discussions last November concerning the initial findings of the Environmental Protection Agency Region 4 (EPA) differential oversight review of the North Carolina Department of Environmental Quality (NCDEQ) enforcement programs. EPA initiated the review in response to performance trends observed in NCDEQ's State Review Framework (SRF) metrics during the Annual Data Metrics Analysis (ADMA). The FY14 ADMA for North Carolina revealed significant downward trends over the prior four years (FY11 – FY14) in several key enforcement related metrics, including drops in informal and formal enforcement actions, penalties, and significant non-compliance designations. The drop in enforcement outputs and outcomes coincides with several legislative and policy changes made in 2011 which became effective in FY12.

EPA notified NCDEQ in early 2015 that additional review was needed to determine if the State was meeting its delegated responsibilities for compliance assurance implementation. To advance EPA's understanding of NCDEQ's programs, review teams consisting of Office Enforcement Coordination (OEC) staff and representatives for the Clean Air Act (CAA), Clean Water Act (CWA), and Resource Conservation and Recovery Act (RCRA) conducted a differential oversight review of records of recent violations and enforcement activities. These reviews were completed in FY15, and a summary of the results was shared with your senior enforcement managers in our annual EPA/State compliance assurance meeting on November 9, 2015.

As promised during our meeting, I have included with this letter a more detailed description and examples of the concerns our reviews have identified. Additionally, I have also articulated proposed steps I believe are needed to address each issue. I suggest that NCDEQ and EPA schedule a meeting in Raleigh or Atlanta within the next few weeks to begin outlining a plan for addressing the identified concerns.

While there is still much work to be done, I am encouraged to see recent improvements reflected in the oversight file reviews and some of the FY15 ADMA metrics, and I wanted to acknowledge the progress in these areas. These improvements are a step in the right direction, and I hope they can form the foundation for further progress. However, consistent with the Agency's National Strategy for Improving Oversight of State Enforcement Performance, EPA will continue to pursue appropriate escalation actions to address the concerns we have identified if adequate progress is not made. These efforts may

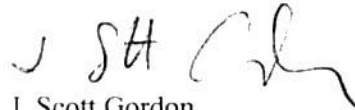
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include additional EPA oversight of inspections and enforcement, independent EPA actions, and reviews of program authorization.

My sense from our meeting in November was that NCDEQ enforcement managers agreed with EPA's findings and sought specific input on areas of resolution. I look forward to establishing specific steps toward improvement. As always, feel free to contact me to discuss any ideas or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Scott Gordon', with a stylized flourish at the end.

J. Scott Gordon

Director

Office of Enforcement Coordination

Enclosure

cc: Mr. John Evans, Chief Deputy Secretary
Mr. Tom Reeder, Assistant Secretary for the Environment
Ms. Sheila Holman, Director, Division of Air Quality
Mr. Michael Scott, Director, Division of Waste Management
Ms. Kim Colson, Director, Division of Water Infrastructure
Mr. Jay Zimmerman, Director, Division of Water Resources
Mr. Tracy Davis, Director, Division of Energy, Mineral & Land Resources

bcc: Carol Kemker, Acting Director, Air, Pesticides and Toxics Management Division
Beverly Spagg, Chief, Air Enforcement and Toxics Branch
James Giattina, Director, Water Protection Division
Denisse Diaz, NPDES Permitting and Enforcement Branch
Alan Farmer, Director, Resource Conservation and Restoration Division
Bill Truman, Acting Chief, Enforcement and Compliance Branch

Enclosure

EPA's expectations for the performance of North Carolina's compliance assurance programs are laid out in a collection of program-specific agreements and national policy documents for each program, including, but not limited to the documents indicated below:

Overarching:

- Revised Policy Framework for State/EPA Enforcement Agreements
- Oversight of State and Local Penalty Assessments: Revisions to the Policy Framework for State/EPA Agreements

CAA:

- NCDEQ Air Planning Agreement for the CAA Section 105 grant
- NCDEQ CAA Compliance Monitoring Strategy (CMS) Plan
- Clean Air Act Stationary Source Compliance Monitoring Strategy
- Timely and Appropriate Enforcement Response to High Priority Violations
- Guidance on Federally-Reportable Violations for Clean Air Act Stationary Sources

CWA:

- NCDEQ CWA Section 106 grant work plan
- NCDEQ NPDES EMS Plan
- NCDEQ/Region 4 CWA Memorandum of Agreement
- CWA NPDES Compliance Monitoring Strategy
- CWA NPDES Enforcement Management System

RCRA:

- NCDEQ RCRA grant work plan
- NCDEQ/Region 4 RCRA Memorandum of Agreement
- Compliance Monitoring Strategy for the RCRA Subtitle C Program and Appendices
- RCRA Hazardous Waste Enforcement Response Policy
- RCRA Civil Penalty Policy

EPA evaluated the performance of North Carolina's major regulatory programs during the Round 3 SRF review, which was completed in September 2013 based on FY2011 activities. The following areas were identified as the priority issues affecting the State's performance:

- For all three media (CAA, CWA, & RCRA), improvement was needed in the documentation of penalty calculations, to include the consideration of economic benefit and the rationale for any difference between the initial and final penalty assessed;
- Improvement was needed in the accuracy of data entry in the NPDES Integrated Compliance Information System (ICIS-NPDES);
- Improvement was needed in the timeliness and appropriateness of CWA enforcement actions, and these actions needed to promote a return to compliance.

A summary of all of the findings is included in the table below:

Review Element	CWA	CAA	RCRA
Element 1 - Data Completeness	Meets	Meets	Meets
Element 2 - Data Accuracy	Improvement	Attention	Meets
Element 3 - Timeliness of Data Entry	No Finding	Meets	No Finding
Element 4 - Completion of Commitments	Attention	Meets	Meets
Element 5 - Inspection Coverage	Meets	Meets	Improvement
Element 6 - Quality of Inspection Reports	Improvement	Meets	Meets
Element 7 - Identification of Violations	Meets	Attention	Meets
Element 8 - Identification of HPVs	Meets	Meets	Meets
Element 9 - Enforcement Promotes Compliance	Improvement	Meets	Meets
Element 10 - Timely and Appropriate Action	Improvement	Meets	Meets
Element 11 - Penalty Calculation Method	Improvement	Improvement	Improvement
Element 12 - Final Penalty Assessment & Collection	Attention	Meets	Meets

Despite progress in addressing some of the areas for improvement, EPA observed significant downward trends in NCDEQ's performance metrics during the FY14 Annual Data Metrics Analysis (ADMA). Between the years of FY11 to FY14, several key enforcement related metrics showed a significant decline, including drops in informal and formal enforcement actions¹, penalties, and significant non-compliance designations.

This drop in North Carolina's enforcement outputs and outcomes coincides with several legislative and policy changes made in 2011 which became effective in FY12. First, North Carolina's Regulatory Reform Act of 2011 (Session Law 2011-398) required the Secretary to "develop a uniform policy for notification of deficiencies and violations for all regulatory programs within the Department..."² The resulting Uniform Violation Notification Policy for the Department of Environment and Natural Resources (often referred to as the "Tiered Enforcement Policy") asserts "that violations of rules typically fit into three categories – 1. Recordkeeping and paperwork that result in little or no harm to the environment or public health; 2. More serious infractions that could result in harm to the environment or public health; and 3. Violations that have clearly impacted the environment or public health. The policy will formally recognize the tiered approach, so that a "Tier 1" violation will be met with a less severe response than a "Tier 3" violation."³

The policy also establishes three forms of notice which generally correlate with these violation tiers: Notice of Deficiency (NOD) for Tier 1 violations; Notice of Violation (NOV) for Tier 2 violations; and Notice of Recommendation for Enforcement for Tier 3 violations, which is typically accompanied by a subsequent civil penalty assessment.⁴

Our data analysis and differential oversight reviews identified several direct consequences of the application of NCDEQ's Tiered Enforcement Policy which we believe weaken the State's compliance assurance programs. First, fewer violations are being reported to EPA (and the public) due to the fact

¹ NCDEQ has asked EPA for clarification on the definition of formal enforcement. This varies by program, but EPA has prepared the document Informal and Formal Enforcement Action Definitions which may provide some clarity.

² North Carolina Session Law 2011-398, Section 61.

³ Uniform Violation Notification Policy for the Department of Environment and Natural Resources, p. 2.

⁴ *Ibid.*

that NODs are not being entered into the national data systems. This practice not only falls short of EPA's policy expectations (e.g. CAA FRV policy), but it significantly reduces transparency to both EPA and the public. Next, our review confirmed that numerous sources were cited for violations utilizing the NOD or NOV, sometimes on multiple occasions, but without appropriate escalation to the more severe formal enforcement response, which compromised a key goal of "credible national deterrence to noncompliance."⁵ Evidence of this was that sources were frequently cited multiple times for the same types of violations.

Another significant legislative development in 2011 which had direct impacts to NCDEQ's enforcement programs was the passage of North Carolina Session Law 2011-145, which amends Part 1 of Article 7 of Chapter 143B of the General Statutes by adding a new section as follows:

"§ 143B-279.16. Civil penalty assessments.

(a) The purpose of this section is to provide to the person receiving a notice of violation of an environmental statute or an environmental rule a greater opportunity to understand what corrective action is needed, receive technical assistance from the Department of Environment and Natural Resources, and to take the needed corrective action. It is also the purpose of this section to provide to the person receiving the notice of violation a greater opportunity for informally resolving matters involving any such violation.

(b) In order to fulfill the purpose set forth in subsection (a) of this section, the Department of Environment and Natural Resources shall, effective July 1, 2011, extend the period of time by 10 days between the time the violator is sent a notice of violation of an environmental statute or an environmental rule and the subsequent date the violator is sent an assessment of the civil penalty for the violation."⁶

Based on our differential oversight review findings, NCDEQ's implementation of this legislative action has resulted in fewer formal penalty actions being issued. Again, this raises concerns about effective deterrence and providing a "level playing field" for sources throughout the country.

Keeping in mind the Federal policy frame outlined here, as well as the recent state legislative and policy revisions discussed, we have summarized our program specific findings below, with recommended next steps for each area of concern.

⁵ Revised Policy Framework for State/EPA Enforcement Agreements, p. 1.

⁶ North Carolina Session Law 2011-145, p. 164.

Clean Air Act

Background: The FY14 Clean Air Act ADMA revealed significant downward trends over the prior four years in several key metrics, with a precipitous drop occurring between FY13 and FY14. As an example, CAA metric for assessed penalties dropped by 93% statewide, from about \$235,000 in FY11 to just under \$17,000 in FY14. During the same period, the number of facilities with informal and formal enforcement actions also dropped dramatically (52% and 79%, respectively). In addition, facilities with an HPV determination dropped by 64%. Though EPA makes HPV determinations on behalf of NC, this drop in HPVs results from fewer NOV's being presented to EPA for review.

Metric ID	Metric Name	2011	2012	2013	2014
1e2	Number of Facilities with an Informal Enforcement Action (Facility Count)	124	73	61	59
1f1	Number of HPVs Identified (Activity Count)	12	13	8	4
1g1	Number of Formal Enforcement Actions Issued to Tier I Facilities (Activity Count)	15	14	12	9
1g2	Number of Tier I Facilities Subject to a Formal Enforcement Action (Facility Count)	14	10	12	3
1h1	Total Amount of Assessed Penalties	\$235,159	\$95,356	\$97,629	\$16,865
1h2	Number of Formal Enforcement Actions with an Assessed Penalty	13	9	11	3
8a	HPV Discovery Rate Per Major Facility Universe	3.1%	2.8%	2.4%	0.9%

The Division of Air Quality (DAQ) revised their Facility Guidelines, Penalty Tree, and Open Burning Guidelines on March 19, 2012, to address the requirements of the Tiered Enforcement Policy. EPA applauds NCDEQ's development of a penalty policy, which is encouraged in EPA's guidance entitled "Oversight of State and Local Penalty Assessments: Revisions to the Policy Framework for State/EPA Agreements", which states the following:

"State and local enforcement agencies are strongly encouraged to develop written penalty policies, criteria, or procedures for penalty assessments. EPA will then review and evaluate, but not formally approve, these penalty policies, criteria or procedures for consistency with the general penalty criteria..."⁷

However, Region 4 was not given an opportunity to review these revisions, which would have put us on notice about the potential impacts of the Tiered Enforcement Policy, and given us a chance to provide feedback with respect to the policy's compliance with EPA guidance and penalty criteria.

⁷ Oversight of State and Local Penalty Assessments: Revisions to the Policy Framework for State/EPA Agreements, p. 2.

To further evaluate whether the drop in enforcement was warranted, EPA staff conducted a differential oversight review of 20 sources with recent violations and enforcement activities. A summary of the key findings is outlined below.

Outstanding issues:

Element 3 – Violations: Inaccurate determination/failure to report FRVs and HPVs

Half of the facilities reviewed had either a missing FRV or HPV. Although many violations identified as “Tier 1” according to the Tiered Enforcement Policy may be federally reportable violations, DAQ did not report these violations into ICIS-Air when they were cited using a NOD. In addition, DAQ has historically relied on EPA to enter HPV data into the national system, but changes are needed to the protocols for reporting to ensure that HPVs are properly entered in the new data system. Missing HPV: *Darnel, Mann & Hummel; Momentive Specialty Chemicals; Stericycle*. Missing FRV: *Domtar; Iredell; J.T. Russell; Lampe & Malphrus; OMNOVA; Unilin*

Next Steps:

- DAQ is required to report FRVs into ICIS-Air. Many of the violations DAQ cites in NODs are specifically identified as FRVs in the new FRV policy, including late reports, late source tests, and failure to maintain records, and DAQ has not been reporting these FRVs into ICIS-Air. DAQ needs to immediately begin reporting all FRVs, including those addressed by a NOD, into ICIS-Air.
- EPA strongly recommends that DAQ begin reporting HPVs into ICIS-Air as soon as the needed programing is completed. EPA also notes that DAQ is required to enter all MDR data for all enforcement actions, including both informal and formal enforcement actions.

Element 4 – Enforcement:

Metric 9a - Enforcement actions that do not return sources to compliance

Chronic non-compliance not addressed through appropriate escalation and deterrence

During the differential oversight review, EPA identified 12 sources which were repeatedly cited by DAQ for non-compliance, often for similar offenses, but without any formal action. When escalation occurred, it did not ultimately result in a formal penalty action being taken. These sources included the following: *Darnel, Domtar, Enviva, Glenoit, Goldsboro, Iredell, Special Fab, Mann & Hummel, Murphy Brown, OMNOVA, North Carolina Central University, and Unilin*.

Inconsistent application of state enforcement policies

The differential oversight review identified several facilities for which the Tiered Enforcement Policy or Facility Guidelines, Penalty Tree, and Open Burning Guidelines were not consistently applied, or where the appropriate escalation prescribed by the policy were relaxed even when sources had poor compliance records. Facilities where EPA noted this occurrence include the following: *Domtar, Glenoit, Goldsboro,*

J.T Russell, Lampe & Malphrus, Momenive, Murphy Brown, North Carolina Central University, Stericycle, and Unilin.

Next Steps:

- The Tiered Enforcement Policy provides for both adequate compliance and deterrence actions to be effectively taken. Penalties can be sought after just one prior notice to the company, but DAQ is not exercising this discretion. EPA recommends utilizing the discretion available to DAQ within the policy to enhance environmental protection, while maintaining compliance with existing enforcement agreements and policy documents.
- Repeat violations can be an indication of ineffective environmental management by industry all the way up to systematic and/or intentional non-compliance. EPA recommends that DAQ take a broader view of a company's compliance record to ensure that these issues are addressed.

Element 5 – Penalties:

Metric 11a: Economic benefit is not adequately calculated or assessed

The Round 3 SRF review identified economic benefit in penalties as an Area for State Improvement. The differential oversight review confirmed that DAQ efforts to calculate, assess and recover economic benefit are not adequate and consistent with EPA policy, as indicated by the following examples:

For the N.S. Flexibles case (SOC 2014-002), the source exceeded its PSD-avoidance limit for VOCs, which should have automatically triggered PSD permitting and BACT analysis for VOCs. Instead, DAQ entered into an SOC with the facility, allowing them to continue operations and apply for either a Plant-wide Applicability Limit (PAL) or a PSD permit. In the interim, DAQ assessed stipulated penalties (\$1000/mo.) for each month the source exceeded its limit. DAQ describes this as the “pragmatic approach” of enforcing on the facility while allowing operations to continue. No effort was made by DAQ to calculate the economic benefit associated with continued operation of the facility above the applicable emission limit, so it is unclear whether the penalty of \$10,000 is adequate to recover the economic benefit gained.

For a second facility, Domtar, DAQ identified PSD violations. The company built a lignin solids removal plant (LSRP) without going through the PSD permitting process, asserting to DAQ that no actual emissions increases (above the significance threshold) would result from the project. However, increases in H₂S and TRS (total reduced Sulphur) did occur, and the company operated throughout 2013 and 2014 before contacting DAQ and reducing production levels. DAQ entered an SOC with the company (SOC 2015-01) which allows the company to take the LSRP to full production, resulting in an estimated 24.7 tpy of TRS and 22.7 tpy of H₂S emissions. The SOC establishes a compliance schedule and assesses a penalty of \$100,000, which clearly does not recover the economic benefit associated with plant operations beginning in February 2013 and continuing through the June 2018 compliance date in the SOC.

In the Carl Rose case, after failing a PM source test, the source continued operating for 7 months before successfully passing a retest. DAQ's penalty of \$2,000 was taken from the penalty matrix, but did not reflect any consideration for the economic benefit associated with continued operation in the interim.

Next Steps:

- Provide EPA with the current policy and procedures in place related to calculation, assessment, and recovery of economic benefit.
- If no coherent policies or procedures are in place, work with EPA to develop them consistent with the expectations laid out in EPA's "Oversight of State and Local Penalty Assessments: Revisions to the Policy Framework for State/EPA Agreements".⁸

⁸ *Ibid*, p. 5

NBT RESPONSE

NOT RESPONSIVE

NOT RESPONSIVE

Not Response

Not responsible

REDACTED

**National Strategy Regional Oversight Issues and Approaches
Region 4, North Carolina
June 2014**

PROGRAM	Significant Issues (Round 3 SRF)	Corrective Measures/Escalation Approach with Timeframes	Discussion/Questions
CAA	Data	NC to revise procedures on penalty calculations and submit penalty worksheets for federally reportable violations to EPA. Region to monitor progress (3/31/14)	NC maintains that existing policies and regulations are adequate to ensure economic benefit is recovered; EPA will review penalties assessed, but only one penalty action issued in FY14, and EB documentation was insufficient.
	Inspections		
	Violations		
	Enforcement		
	Penalty Calculations		

NOT RESPONSIVE

PROGRAM	Significant Issues (Round 3 SRF)	Corrective Measures/Escalation Approach with Timeframes	Discussion/Questions

**National Strategy Regional Oversight Issues and Approaches
Region 4, North Carolina
March 2015**

REDACTED

PROGRAM	Significant Issues (Round 3 SRF)	Corrective Measures/Escalation Approach with Timeframes	Discussion/Questions
CAA	Data		
	Inspections		
	Violations		
	Enforcement		
	Penalty Calculations	NC to revise procedures on penalty calculations and submit penalty worksheets for federally reportable violations to EPA. Region to monitor progress (3/31/14) No improvements observed in documentation of Economic Benefit.	Pursuant to Regional oversight plan, due to low enforcement actions and penalties in FY14, Region will conduct additional file reviews in March 2015 to evaluate violation identification, penalty calculations, and impacts of state's tiered enforcement policy.

NOT RESPONSIVE

**National Strategy Regional Oversight Issues and Approaches
Region 4, North Carolina
March 2015**

PROGRAM	Significant Issues (Round 3 SRF)	Corrective Measures/Escalation Approach with Timeframes	Discussion/Questions

National Strategy Regional Oversight Issues and Approaches
Region 4 - North Carolina
March 1, 2016

Program	SRF Element	Significant Issues	Corrective Measures/Escalation Approach with Timeframes	National Strategy Escalation Tier (1, 2, 3, 4 or combination)*	Discussion/Questions
CAA	Data				
	Inspections				
	Violations	ADMA: Significant downward trend in HPVs observed between FY11 – FY14. The differential oversight review in March 2015 confirmed that half of the facilities evaluated had a missing FRV or HPV.	NC must begin reporting notices of deficiency (NODs) and other forms of notice associated with FRVs into ICIS-Air in order to comply with the new FRV policy. Many of the violations cited in NODs are specifically identified as FRVs, including late reports, late source tests, failure to maintain records. NC should begin reporting HPVs themselves (EPA historically entered HPVs on state's behalf). The new HPV policy results in fewer HPVs overall, and FRVs and HPVs can be entered into a single case file in ICIS-Air. EPA notes that NC is required to enter all MDR data for all enforcement actions, including both informal and formal enforcement actions.	Tier 3	R4 has met with NCDEQ Secretary and Sr. enforcement managers and shared findings of differential oversight review. A letter to the Secretary has been drafted requesting plan for improvement by April 15, 2016.
	Enforcement	ADMA: Significant downward trend in informal and formal enforcement actions observed between FY11 – FY14. This coincides with the issuance of the "Tiered Enforcement Policy" and other policy changes which reduced the violations that would lead to formal action. Differential oversight review (3/15) found 2 enforcement actions	Region evaluating the need to conduct independent review of enforcement actions to determine whether over file is warranted.	Tier 3	See above.

- * **Tier 1: Work with the state to call attention to the issue** - Staff level discussions; Capacity building; Technical assistance; Training/workshops; Standard Operating Procedures (SOPs); Voluntary workshare; includes "Area for State Attention" in SRF reports.
- Tier 2: Elevate problem-resolution to higher management and document path to resolution** - Upper management discussions (RA/Commissioner level); Corrective actions in writing (including "Area for State Improvement" in SRF reports); Grant workplans and PPA (language with changes); Issue-specific MOAs; Corrective actions monitored on a regular basis
- Tier 3: Take direct EPA action** - Review completed state actions to see improvements; Review actions prior to state taking action to ensure conformance; Conduct joint, oversight, or fed only inspections; Bring fed only cases
- Tier 4: Escalating EPA action** - Overfiling when a state does not take action; Withholding grant funds; Temporary or partial withdrawal of a program; Full program withdrawal

**National Strategy Regional Oversight Issues and Approaches
Region 4 - North Carolina
March 1, 2016**

REDACTED

Program	SRF Element	Significant Issues	Corrective Measures/Escalation Approach with Timeframes	National Strategy Escalation Tier (1, 2, 3, 4 or combination)*	Discussion/Questions
		that did not return source to compliance. Also, repeat violators are not addressed through escalation and deterrence.			
	Penalty Calculations	Round 3: Initial penalty calculations do not adequately document the consideration of economic benefit using the BEN model or other method. ADMA: Significant drop in penalties (93%) between FY11 and FY14. Differential oversight review (3/15) confirmed that NC does not adequately calculate, assess and recover economic benefit.	Round 3: NC to revise procedures on penalty calculations and submit penalty worksheets for federally reportable violations to EPA. Region to monitor progress. (9/30/16) Action Items: Fully evaluate whether any economic benefit (delayed or avoided costs) was gained in each case, document economic benefit calculations in the file, and when no economic benefit is assessed, document specific rationale for why no economic benefit was realized.	Tier 3	See above.
		NOT RESPONSIVE			

* **Tier 1: Work with the state to call attention to the issue** - Staff level discussions; Capacity building; Technical assistance; Training/workshops; Standard Operating Procedures (SOPs); Voluntary workshare; includes "Area for State Attention" in SRF reports.

Tier 2: Elevate problem-resolution to higher management and document path to resolution - Upper management discussions (RA/Commissioner level); Corrective actions in writing (including "Area for State Improvement" in SRF reports); Grant workplans and PPA (language with changes); Issue-specific MOAs; Corrective actions monitored on a regular basis

Tier 3: Take direct EPA action - Review completed state actions to see improvements; Review actions prior to state taking action to ensure conformance; Conduct joint, oversight, or fed only inspections; Bring fed only cases

Tier 4: Escalating EPA action - Overfiling when a state does not take action; Withholding grant funds; Temporary or partial withdrawal of a program; Full program withdrawal

National Strategy Regional Oversight Issues and Approaches
Region 4 - North Carolina
March 1, 2016

REDACTED

Program	SRF Element	Significant Issues	Corrective Measures/Escalation Approach with Timeframes	National Strategy Escalation Tier (1, 2, 3, 4 or combination)*	Discussion/Questions
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NOT RESPONSIVE

* **Tier 1: Work with the state to call attention to the issue** - Staff level discussions; Capacity building; Technical assistance; Training/workshops; Standard Operating Procedures (SOPs); Voluntary workshare; includes "Area for State Attention" in SRF reports.

Tier 2: Elevate problem-resolution to higher management and document path to resolution - Upper management discussions (RA/Commissioner level); Corrective actions in writing (including "Area for State Improvement" in SRF reports); Grant workplans and PPA (language with changes); Issue-specific MOAs; Corrective actions monitored on a regular basis

Tier 3: Take direct EPA action - Review completed state actions to see improvements; Review actions prior to state taking action to ensure conformance; Conduct joint, oversight, or fed only inspections; Bring fed only cases

Tier 4: Escalating EPA action - Overfiling when a state does not take action; Withholding grant funds; Temporary or partial withdrawal of a program; Full program withdrawal

National Strategy Regional Oversight Issues and Approaches
Region 4 - North Carolina
March 1, 2016

REDACTED

Program	SRF Element	Significant Issues	Corrective Measures/Escalation Approach with Timeframes	National Strategy Escalation Tier (1, 2, 3, 4 or combination)*	Discussion/Questions
NOT RESPONSIVE					

* **Tier 1: Work with the state to call attention to the issue** - Staff level discussions; Capacity building; Technical assistance; Training/workshops; Standard Operating Procedures (SOPs); Voluntary workshare; includes "Area for State Attention" in SRF reports.

Tier 2: Elevate problem-resolution to higher management and document path to resolution - Upper management discussions (RA/Commissioner level); Corrective actions in writing (including "Area for State Improvement" in SRF reports); Grant workplans and PPA (language with changes); Issue-specific MOAs; Corrective actions monitored on a regular basis

Tier 3: Take direct EPA action - Review completed state actions to see improvements; Review actions prior to state taking action to ensure conformance; Conduct joint, oversight, or fed only inspections; Bring fed only cases

Tier 4: Escalating EPA action - Overfiling when a state does not take action; Withholding grant funds; Temporary or partial withdrawal of a program; Full program withdrawal

REDACTED

**National Strategy Regional Oversight Issues and Approaches
Region 4, South Carolina
June 2014**

June 2014

PROGRAM	Significant Issues (DRAFT Round 3 SRF)	Corrective Measures/Escalation Approach with Timeframes	Discussions/Questions
CAA	Data	SC needs improve MDR data accuracy and make corrections to existing data to address the discrepancies. EPA will monitor by periodic reviews (12/31/14)	
	Inspections		
	Violations		
	Enforcement		
	Penalty Calculations		
NOT RESPONSIVE			

**National Strategy Regional Oversight Issues and Approaches
Region 4, South Carolina
March 2015**

REDACTED

PROGRAM	Significant Issues (Round 3 SRF)	Corrective Measures/Escalation Approach with Timeframes	Discussions/Questions
CAA	Data	SC needs to improve MDR data accuracy and make corrections to existing data to address the discrepancies. EPA will monitor by periodic reviews (4/1/15)	
	Inspections		
	Violations		
	Enforcement		
	Penalty Calculations		

NOT RESPONSIVE

**National Strategy Regional Oversight Issues and Approaches
Region 4, South Carolina
March 2015**

National Strategy Regional Oversight Issues and Approaches
Region 4 – South Carolina
March 1, 2016

REDACTED

Program	SRF Element	Significant Issues	Corrective Measures/Escalation Approach with Timeframes	National Strategy Escalation Tier (1, 2, 3, 4 or combination)*	Discussion/Questions
CAA	Data		SRF Round 3: EPA verified corrections to SC data discrepancies during FY15 Data Verification process. Recommendation Closed(2/19/16)		
	Inspections				
	Violations				
	Enforcement				
	Penalty Calculations				

NOT RESPONSIVE

* **Tier 1: Work with the state to call attention to the issue** - Staff level discussions; Capacity building; Technical assistance; Training/workshops; Standard Operating Procedures (SOPs); Voluntary workshare; includes "Area for State Attention" in SRF reports.

Tier 2: Elevate problem-resolution to higher management and document path to resolution - Upper management discussions (RA/Commissioner level); Corrective actions in writing (including "Area for State Improvement" in SRF reports); Grant workplans and PPA (language with changes); Issue-specific MOAs; Corrective actions monitored on a regular basis

Tier 3: Take direct EPA action - Review completed state actions to see improvements; Review actions prior to state taking action to ensure conformance; Conduct joint, oversight, or fed only inspections; Bring fed only cases

Tier 4: Escalating EPA action - Overfiling when a state does not take action; Withholding grant funds; Temporary or partial withdrawal of a program; Full program withdrawal

**National Strategy Regional Oversight Issues and Approaches
Region 4 – South Carolina
March 1, 2016**

Program	SRF Element	Significant Issues	Corrective Measures/Escalation Approach with Timeframes	National Strategy Escalation Tier (1, 2, 3, 4 or combination)*	Discussion/Questions
NOT RESPONSIVE					

* **Tier 1: Work with the state to call attention to the issue** - Staff level discussions; Capacity building; Technical assistance; Training/workshops; Standard Operating Procedures (SOPs); Voluntary workshare; includes "Area for State Attention" in SRF reports.

Tier 2: Elevate problem-resolution to higher management and document path to resolution - Upper management discussions (RA/Commissioner level); Corrective actions in writing (including "Area for State Improvement" in SRF reports); Grant workplans and PPA (language with changes); Issue-specific MOAs; Corrective actions monitored on a regular basis

Tier 3: Take direct EPA action - Review completed state actions to see improvements; Review actions prior to state taking action to ensure conformance; Conduct joint, oversight, or fed only inspections; Bring fed only cases

Tier 4: Escalating EPA action - Overfiling when a state does not take action; Withholding grant funds; Temporary or partial withdrawal of a program; Full program withdrawal

National Strategy Regional Oversight Issues and Approaches
Region 4 - Tennessee
March 1, 2016

REDACTED

Program	SRF Element Round 2	Significant Issues	Corrective Measures/Escalation Approach with Timeframes	National Strategy Escalation Tier (1, 2, 3, 4 or combination)*	Discussion/Questions
NOT RESPONSIVE					

* **Tier 1: Work with the state to call attention to the issue** - Staff level discussions; Capacity building; Technical assistance; Training/workshops; Standard Operating Procedures (SOPs); Voluntary workshare; includes "Area for State Attention" in SRF reports.

Tier 2: Elevate problem-resolution to higher management and document path to resolution - Upper management discussions (RA/Commissioner level); Corrective actions in writing (including "Area for State Improvement" in SRF reports); Grant workplans and PPA (language with changes); Issue-specific MOAs; Corrective actions monitored on a regular basis

Tier 3: Take direct EPA action - Review completed state actions to see improvements; Review actions prior to state taking action to ensure conformance; Conduct joint, oversight, or fed only inspections; Bring fed only cases

Tier 4: Escalating EPA action - Overfiling when a state does not take action; Withholding grant funds; Temporary or partial withdrawal of a program; Full program withdrawal

**National Strategy Regional Oversight Issues and Approaches
Region 4 – South Carolina
March 1, 2016**

REDACTED

Program	SRF Element	Significant Issues	Corrective Measures/Escalation Approach with Timeframes	National Strategy Escalation Tier (1, 2, 3, 4 or combination)*	Discussion/Questions
NOT RESPONSIVE					

- * **Tier 1: Work with the state to call attention to the issue** - Staff level discussions; Capacity building; Technical assistance; Training/workshops; Standard Operating Procedures (SOPs); Voluntary workshare; includes "Area for State Attention" in SRF reports.
- Tier 2: Elevate problem-resolution to higher management and document path to resolution** - Upper management discussions (RA/Commissioner level); Corrective actions in writing (including "Area for State Improvement" in SRF reports); Grant workplans and PPA (language with changes); Issue-specific MOAs; Corrective actions monitored on a regular basis
- Tier 3: Take direct EPA action** - Review completed state actions to see improvements; Review actions prior to state taking action to ensure conformance; Conduct joint, oversight, or fed only inspections; Bring fed only cases
- Tier 4: Escalating EPA action** - Overfiling when a state does not take action; Withholding grant funds; Temporary or partial withdrawal of a program; Full program withdrawal

REDACTED

**National Strategy Regional Oversight Issues and Approaches
Region 4, Tennessee
June 2014**

June 2014

PROGRAM	Significant Issues (Round 2)	Corrective Measures/Escalation Approach with Timeframes	Discussion/Questions
CAA	Data	TN to revise procedures to ensure accurate and timely data reporting. Region to monitor through oversight calls (9/30/14)	
	Inspections	TN to revise procedures to ensure timely ACCs for Title v sources and develop a checklist to ensure that report all required elements of an FCE. (9/30/14)	
	Violations		
	Enforcement	TN to revise procedures to improve timeliness of HPV addressing actions (9/30/14)	
	Penalty Calculations		
NOT RESPONSIVE			

PROGRAM	Significant Issues (Round 2)	Corrective Measures/Escalation Approach with Timeframes	Discussion/Questions

**National Strategy Regional Oversight Issues and Approaches
Region 4, Tennessee
March 2015**

REDACTED

PROGRAM	Significant Issues (Round 2)	Corrective Measures/Escalation Approach with Timeframes	Discussion/Questions
CAA	Data	ADMA documents significant improvement in the completeness, accuracy & timeliness of TN data in AFS. (Completed 9/19/14)	
	Inspections	ADMA shows TN has improved (92%) in review of Title V Annual Compliance Certifications. TN developed revised FCE checklist which should ensure that all required FCE elements are addressed. (Completed 9/19/14)	
	Violations		
	Enforcement	FY14 data reflects improvement in addressing HPVs within 270 days (77%) to above the national goal (73%). (Completed 9/19/14)	Only one unaddressed HPV remains outstanding; several HPVs that were 2 – 3 years old were addressed in FY14; newer HPVs identified in FY14 are being addressed in 270 days or less.
	Penalty Calculations		

NOT RESPONSIVE

National Strategy Regional Oversight Issues and Approaches
Region 4, Tennessee
March 2015

REDACTED

PROGRAM	Significant Issues (Round 2)	Corrective Measures/Escalation Approach with Timeframes	Discussion/Questions
NOT RESPONSIVE			

**National Strategy Regional Oversight Issues and Approaches
Region 4 - Tennessee
March 1, 2016**

REDACTED

Program	SRF Element Round 2	Significant Issues	Corrective Measures/Escalation Approach with Timeframes	National Strategy Escalation Tier (1, 2, 3, 4 or combination)*	Discussion/Questions
CAA	Data		ADMA documents significant improvement in the completeness, accuracy & timeliness of TN data in AFS. Recommendation Closed (9/19/14)		
	Inspections		ADMA shows TN has improved (92%) in review of Title V Annual Compliance Certifications. TN developed revised FCE checklist which should ensure that all required FCE elements are addressed. Recommendation Closed (9/19/14)		
	Violations				
	Enforcement		FY14 data reflects improvement in addressing HPVs within 270 days (77%) to above the national goal (73%). Recommendation Closed (9/19/14)		
	Penalty Calculations				

NOT RESPONSIVE

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National Strategy Regional Oversight Issues and Approaches
Region 4 - Tennessee
March 1, 2016

REDACTED

Program	SRF Element Round 2	Significant Issues	Corrective Measures/Escalation Approach with Timeframes	National Strategy Escalation Tier (1, 2, 3, 4 or combination)*	Discussion/Questions
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NOT RESPONSIVE

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